

Town of Pomfret

5218 Pomfret Road

North Pomfret, VT 05053

Agenda for March 18, 2015 Select Board Meeting

7:00pm at the Pomfret Town Offices

Agenda Item	Presiding Officer	Timeframe
1. Call to order	Select Board Chair	7:00-7:05pm
2. Agenda review	Select Board Chair	7:05-7:10pm
3. Public comment (2 min./person limit)	Select Board Chair	7:10-7:25pm
4. Recurring items, incl. those requiring a vote		
a. Review, discussion (if any), & approval of previous minutes	Select Board Clerk	7:25-7:30pm
b. Review of Treasurer's report	Treasurer	7:30-7:40pm
i. Warrants to be paid		
1. Payroll warrant 261		
2. Accounts Payable warrant 262		
ii. Labounty Trust		
c. Review of Road Foreman's report, including any public notices	Road Foreman	7:40-7:45pm
5. Business items requiring a vote	Select Board Chair	7:45-8:20pm
a. Solar Siting Resolution		
b. Town Meeting Minutes		
c. Meeting Rules of Procedure		
d. Appointments:		
i. Auditor		
ii. Solid Waste District Representatives		
iii. Emergency Services Director		
6. Business items for discussion	Select Board Members responsible for each item	8:20-8:50pm
a. T. Havill property damage claim (see 19 V.S.A. §§ 923, 925, 926)		
b. Update on Repeater project		
c. Plan of action on Town Budget revision		
d. Use of Pomfret listserv for distributing public information		
e. Select Board correspondence		
7. Closing public comments & adjournment	Select Board Chair	8:50-9:00pm

Invoices Up To 03/18/15

Vendor	Invoice Number	Purchase Order	Invoice Date	Due Date	Ck Acct	Invoice Amount	Discenc. Amount	Discount Amount
1120	BERGERON PROTECTIVE CLOTH 179588		03/16/15	03/18/15	01	battery pack FD		
	100-7-30-40-610.000		Supplies			264.39	0.00	0.00
1150	BLUE CROSS & BLUE SHIELD APR2015		03/13/15	03/18/15	01	health ins 4-15 4 people		
	100-2-00-00-100.020		Health Ins Payable			4,669.89	0.00	0.00
1272	CASELLA WASTE SERVICES 160935		03/13/15	03/18/15	01	trash/dumpster @ garage		
	150-7-40-83-410.000		Garage Utilities			25.00	0.00	0.00
1370	D & D EXCAVATING, INC. 2580		03/13/15	03/18/15	01	338 tons sand		
	150-7-20-75-650.005		Sand			4,563.00	0.00	0.00
	2654		03/13/15	03/18/15	01	618 tons sand		
	150-7-20-75-650.005		Sand			8,343.00	0.00	0.00
Total For D & D EXCAVATING, INC.						12,906.00	0.00	0.00
1430	DEAD RIVER COMPANY 60796		03/16/15	03/18/15	01	208.5 gal heat oil garage		
	150-7-40-83-430.005		Garage Fuel Oil			717.03	0.00	0.00
	7970		03/13/15	03/18/15	01	7.2 gal heat oil, town ha		
	100-7-10-65-624.000		Fuel Oil, Town Hall			24.76	0.00	0.00
	82074		03/16/15	03/18/15	01	123.9 gal propane TO		
	100-7-10-30-623.000		Propane			226.61	0.00	0.00
	82076		03/16/15	03/18/15	01	220 gal propane PFD		
	100-7-30-40-623.000		Propane Pomfret Fire Dept			402.38	0.00	0.00
	92794		03/16/15	03/18/15	01	171.o gal heat oil, Teago		
	100-7-30-40-624.000		Heating oil, Teago FD			588.07	0.00	0.00
Total For DEAD RIVER COMPANY						1,958.85	0.00	0.00
1595	FAIR POINT COMMUNICATIONS 1125 3-3-15		03/16/15	03/18/15	01	Teago FD phone feb		
	100-7-30-40-530.003		Teago FD phones			112.99	0.00	0.00
	2767DUE3315		03/13/15	03/18/15	01	garage phones feb		
	150-7-40-83-410.000		Garage Utilities			71.89	0.00	0.00
	3730 3-3-15		03/16/15	03/18/15	01	phones PFD feb		
	100-7-30-40-530.001		Pomfret FD phones			132.13	0.00	0.00
	3861 3-15		03/13/15	03/18/15	01	town office phones feb		
	100-7-10-30-530.000		Telephone-Internet			109.47	0.00	0.00
Total For FAIR POINT COMMUNICATIONS						426.48	0.00	0.00

Invoices Up To 03/18/15

Vendor	Invoice Number	Purchase Order	Invoice Date	Due Date	Ck Acct	Invoice Amount	Discenc. Amount	Discount Amount
1880	HP FAIRFIELD	220577	03/13/15	03/18/15	01	Truck 1 parts, blades		
		150-7-30-80-330.025	Blades, Shoes, Rake Teeth			240.00	0.00	0.00
		150-7-35-05-670.015	Truck 1, parts			144.00	0.00	0.00
Invoice 220577 Total						384.00	0.00	0.00
		226333	03/13/15	03/18/15	01	trucks 2 & 3 springs		
		150-7-35-05-671.020	Truck 2, repairs			73.51	0.00	0.00
		150-7-35-05-672.020	Truck 3, repairs			73.51	0.00	0.00
Invoice 226333 Total						147.02	0.00	0.00
Total For HP FAIRFIELD						531.02	0.00	0.00
1910	IRVING OIL CORPORATION	353036	03/13/15	03/18/15	01	221.4 gal diesel		
		150-7-30-80-330.000	Diesel			684.85	0.00	0.00
		53468	03/16/15	03/18/15	01	220.1 gal diesel		
		150-7-30-80-330.000	Diesel			608.25	0.00	0.00
Total For IRVING OIL CORPORATION						1,293.10	0.00	0.00
1922	J&B INTERNATIONAL TRUCKS,	7829	03/13/15	03/18/15	01	first payment, new truck		
		150-7-30-80-330.035	Vehicle purchase			42,683.00	0.00	0.00
2545	REPORTING SYSTEMS, INC.	2015-0542	03/16/15	03/18/15	01	2 ann. contract:Fire, map		
		100-7-30-40-611.000	Emergency Reporting			1,536.00	0.00	0.00
2580	SABIL & SONS, INC.	71756 - 2ND	03/13/15	03/18/15	01	towing, truck #2		
		150-7-35-05-671.020	Truck 2, repairs			500.00	0.00	0.00
2705	TDS LEASING INC.	1049817	03/13/15	03/18/15	01	monthly copier lease		
		100-7-10-30-740.000	Other New Equip/Copier le			94.25	0.00	0.00
2930	VERIZON	DUE 3-18-15	03/13/15	03/18/15	01	garage cell phone bill		
		150-7-30-80-330.030	Radios & Cellphones			49.63	0.00	0.00
3320	WINDSOR COUNTY SHERIFF DE	M53-7-14	03/13/15	03/18/15	01	sheriff's patrol for Feb		
		100-7-30-40-525.000	Sheriff's Patrol			1,504.00	0.00	0.00
Report Grand Total						68,441.61	0.00	0.00

Fund Totals	Expenditures	Dis-Encumbrance
100	9,664.94	0.00
150	58,776.67	0.00
	68,441.61	0.00

STATE OF VERMONT
 DISTRICT OF Hartford, SS.

PROBATE COURT
 DOCKET NO.

IN RE TRUST OF Aldea Labounty
 FOR THE BENEFIT OF Town of Pomfret

**SUMMARY OF ACCOUNT OF TRUSTEE
 (Alternate Form)**

~~XX~~ We, Phil Dechert, Michael Reese, and Ellen DesMeules trustee of the above named trust estate account to the court as provided in this summary and the schedules attached hereto for the period to December, 2014.

Total from Inventory or previous Accounting		86,914	20
Other Receipts	Interest paid	587	08
Net gain (or loss) on sales or other disposition	Repairs to Town Hall Roof	-13600	00
Distributions to beneficiaries			
Balance:		73,901	.28

The foregoing is a just and true account,

(Trustee)

Subscribed and sworn to this 18th day of March, 2015

Before me, Phil Dechert, Michael Reese and Ellen DesMeules
 Judge-Register-Justice of the Peace-Notary Public

NOTICE: A certificate of service must be filed with the Court by the person who submits this document. The certificate must list each person to whom copies of this document have been sent, together with the person's address, the date of service and the

manner of service (e.g., first class mail). See Form 124.

Probate Court Form No. 117A
(page 2 of 2)
Summary of Account of Trustee

IN RE TRUST OF Aldea Labounty

FOR THE BENEFIT OF Town of Pomfret

MOTION TO ALLOW ACCOUNT*

X, We, Phil Dechert, Michael Reese, and Ellen DesMeules
trustee of the above named
trust, move the court to allow this account.

Dated at Pomfret, VT this 18th day of March, 2015

Signed _____, Trustee

ORDER

Examined on oath and allowed,

Dated _____ Signed _____, Judge

Note

* V.R.P.P. 66(d) requires that, in a trust proceeding, a motion to allow account be filed no less frequently than every third year.

This issue raises a recurring theme throughout the review of the town's special funds: the lack of investment oversight. Preserving principal is one component of this oversight. The standard the town must meet is that of the "prudent investor." Arguably, the prudent investor would also try to invest the fund for growth of income to benefit the town purpose of the fund. According to Vermont law, either the Treasurer or the Trustees of Public Funds, or a combination of both, are to oversee this type of fund, which includes how it is invested, as well as how it is expended.

The accounting method used to track special funds is at risk for error.
Year-end reports are not requested from the banks in which these funds are invested. The treasurer uses the interest reported at the time the CDs are rolled over, rather than seek year-end amounts to be reported in the treasurer's annual accounting.

In addition, the interest is tracked by means of a check register, rather than an Excel spreadsheet where amounts can be automatically calculated, thus reducing error.

A related question is can NEMRC accommodate the tracking of investment assets.

6. Recommendations

- a. Perhaps more research could be done to identify the "Hawkins Fund" portion of the overall fund.
- b. The SB should determine if the fund's income can be usefully expended for its purpose, and if not, seek permission from the court to re-direct its purpose or terminate it via the Attorney General's Office.
- c. The SB should review investment practices ensure that the SB is fulfilling its fiduciary duty to preserve principal, reasonably maximize growth, and expend income as intended by the donor. It should seek expert advice on developing an appropriate investment policy for all its permanent funds, such as from the VLCT.
- d. The role of the Trustees for Public Funds should be reviewed and an assessment made as to whether these positions have any present-day applicability, if so, then those who are appointed should be educated in their duties and should perform them as required.
- e. All special funds that are held in trust by the SB should have documentation establishing donor intent so that the SB is not only fulfilling their legal responsibility to the public, but also to ensure that future SBs will know and honor their obligation to the donor. The treasurer does maintain binders on the special funds. Narratives about the funds' history would be a helpful addition, along with identifying any issues associated with their management.

Henry T. LaBounty Trust Fund

1. Documentation

Documents at hand are copies of the first 4 pages of Aldea LaBounty's will, dated August 1981, in which she bequeathes $\frac{1}{4}$ of her estate remainder to the Town of Pomfret. According to the treasurer's record, the principal was \$53,433.61 in 1986, presumably when the trust was realized. There are no documents at hand of the trust terms being accepted by the Select Board (SB). Also, there is no information whether or not the Probate Court appointed a co-trustee, or if the SB accepted this term of the trust. There is a treasurer's record of the fund account from 1986 to 2013.

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2. Description and Purpose

Established by the will of Aldea LaBounty, ¼ of the remainder of her estate to the Town of Pomfret to be known as the Henry T. LaBounty Trust. Income is to be used to "improve the dirt and gravel roads." The testator made clear that the income from the trust was not to substitute for expenditures by the town, but to be in addition to what the town spends on road improvement.

The testator had the foresight to establish an alternative use clause if the income could not be used for the stated purpose. If income cannot be used for the stated purpose, then income to "maintain, improve, or expand" the town hall.

The testator also required that an annual accounting of the fund's use be published in the town report.

The SB members are the co-trustees under the trust created by the will. In addition, a resident of at least five years in the town should be appointed by the Probate Court to serve as co-trustee, whose vote is the deciding vote in the event of a tie. According to the current treasurer, she is co-trustee, too, presumably meeting the five-year residency requirement.

The testator further required that if her appointed trustees (the SB members and a Pomfret citizen of five years' residency in the town) fail to carry out the purposes, then the principal of the trust should go to the Ottauquechee Health Center.

3. Type of Fund and Use

The principal and income of this trust fund are permanently restricted to the purposes stated above. In 1991 almost \$10,000 in income was spent on the Town Hall. Gravel expenditures were made in 1994-1997, plus a new furnace for the Town Hall. Every few years there are expenditures on either roads or the Town Hall. Since 2010, the only annual expenditure has been a court filing fee of \$31.50, presumably with the Probate Court.

4. Investment

This trust is invested in a Mascoma Savings Bank one-year term CD at a rate of .747%. The last accounting of the treasurer on December 31, 2013 shows a principal amount of \$53,433.61, and an interest earning of \$434.90. An income accounting from the treasurer shows \$33,480.59 has been earned on the principal amount. The total value of the fund at year-end is \$86,914.20.

5. Issues

As recently as 2010, the interest earned was \$1,175.16 that year, compared to \$434.90 in 2013. Presumably, the investment vehicle for the trust must have changed.

The accounting method used to track special funds is at risk for error. Year-end reports are not requested from the banks in which these funds are invested. The Treasurer reports the interest earned at the time the CDs are rolled over, which generally do not coincide with year-end.

In addition, the interest is tracked by means of a check register, rather than an Excel spreadsheet where amounts can be automatically calculated, thus reducing error.

A related question is can NEMRC accommodate the tracking of investment assets.

6. Recommendations

Review the appropriateness of the investment vehicle for this trust fund. A drop in the interest on an \$87,000 fund to less than half (\$1,200 to less than \$500) in three years is a significant decline. This issue raises a recurring theme throughout the review of the town's special funds:

the lack of investment oversight. Preserving principal is one component of this oversight. The standard the town must meet is that of the "prudent investor." Arguably, the prudent investor would also try to invest the fund for growth of income to benefit the town purpose of the fund and also to meet the settlor's intent.

Keith Educational Trust Fund

1. Documentation

Documents at hand are copies of the trust agreement, dated January 1945, from Avis Keith of Gloucester, MA, in which she gives the town \$5,000 in trust whose income is to be used to assist worthy women of the town. A copy of the trust was received for the record in April 1945. There is a copy of a letter from the settlor dated July 1947 that further explains her intentions and motivation regarding the gift, and clearly directing that it is for women only. A journal from 1945 to 1969 tracks the amount of annual awards. There is also a copy of an accounting from 1970's to 2013. Also available is a separate binder in the treasurer's office that contains information about the awards and copies of the award checks.

2. Description and Purpose

This fund is a trust established by a trust agreement between Avis Keith and the Select Board (SB) of the Town of Pomfret in January 1945 with \$5,000. The terms are that the principal is to be invested with income only to be used for "worthy young women of the town who lack financial resources to obtain a higher education."

Ms. Keith in her handwritten letter clarifies that the award can be given for either a high school or college education. There are other considerations that she elucidates on which the SB is not bound to by the terms of the trust, but to the extent the SB can comply with the settlor's clarifications without undue burden, they should.

The School Board of Pomfret is to make the annual selection.

3. Type of Fund and Use

This is a trust fund restricted in principal and income for the purpose stated in the trust agreement.

The award has been consistently made from 1945 to 1969 in varying amounts over the years, generally in the \$200 range. There was a purchase of securities from the principal, but monies were added to maintain the \$5,000 principal amount. Starting in 1969 forward, the accounting does not mention an annual award, then in 1982, \$1,279.49 was awarded. Since 1999, there have been only six (6) awards made: 2005-07, and 2009-2011.

4. Investment

Currently the fund is invested in a one-year Mascoma Savings Bank CD at the rate of .399%.

The principal amount is now \$5,410.49. The source is unknown regarding the additional \$410.49. Interest earned in 2013 is \$25.08 and total interest accrued is \$85.57. The total trust fund value as of December 31, 2013 is \$5,521.14.



Mascoma Savings Bank

LaBounty!

Account: Town CD 2		Current Time: 03/13/15 9:53:03 AM		Current Balance: 73,983.14	
Date	Ref/Check No	Description	Debit	Credit	Balance
03/06/2015		Interest Added Back		25.48	73,983.14
02/06/2015		Interest Added Back		28.20	73,957.66
01/06/2015		Interest Added Back		28.18	73,929.46
12/05/2014		Interest Added Back		27.27	73,901.28
11/06/2014		Interest Added Back		28.17	73,874.01
10/06/2014		Interest Added Back		27.24	73,845.84
09/05/2014		Interest Added Back		28.15	73,818.60
08/06/2014		Interest Added Back		28.13	73,790.45
07/03/2014		Interest Added Back		27.22	73,762.32
06/06/2014		Interest Added Back		29.78	73,735.10
05/16/2014	View Image	CD Redemption <i>WD for roofing bills TH</i>	(13,600.00)		73,705.32
05/06/2014		Interest Added Back		32.21	87,305.32
04/04/2014		Interest Added Back		33.28	87,273.11
03/06/2014		Interest Added Back		30.04	87,239.83
02/06/2014		Interest Added Back		33.25	87,209.79
01/06/2014		Interest Added Back		33.24	87,176.54
12/06/2013		Interest Added Back		32.15	87,143.30
11/06/2013		Interest Added Back		33.22	87,111.15
10/04/2013		Interest Added Back		32.12	87,077.93
09/06/2013		Interest Added Back		33.19	87,045.81
08/06/2013		Interest Added Back		33.18	87,012.62
07/05/2013		Interest Added Back		32.09	86,979.44
06/06/2013		Inter		33.15	86,947.35
05/10/2013		With	(31.50)		86,914.20
05/06/2013		Inter		39.15	86,945.70
04/05/2013		Inter		40.44	86,906.55
03/06/2013		Inter		36.51	86,866.11
02/06/2013		Inter		40.40	86,829.60
01/04/2013		Inter		40.39	86,789.20
12/06/2012		Inter		39.06	86,748.81
11/06/2012		Inter		40.35	86,709.75
10/05/2012		Inter		39.03	86,669.40
09/06/2012		Inter		40.31	86,630.37
08/06/2012		Inter		40.29	86,590.06
07/06/2012		Inter		38.97	86,549.77
06/08/2012		With	(31.50)		86,510.80
06/06/2012		Inter		55.11	86,542.30
05/04/2012		Inter		53.29	86,487.19
04/06/2012		Inter		55.04	86,433.90
03/06/2012		Inter		51.46	86,378.86
02/06/2012		Inter		54.97	86,327.40
01/06/2012		Inter		54.94	86,272.43
12/06/2011		Inter		53.13	86,217.49
11/04/2011		Inter		54.86	86,164.36
10/06/2011		Inter		53.07	86,109.50
09/06/2011		Inter		54.80	86,056.43
08/05/2011		Inter		54.52	86,001.63
07/08/2011	View Image	CD	(31.50)		85,947.11
07/06/2011		Inter		73.81	85,978.61
06/06/2011		Inter		76.21	85,904.80
05/06/2011		Inter		73.68	85,828.59
04/06/2011		Inter		76.08	85,754.91

2014

last report

019

587 08 *

CHAPTER 5. AUDITOR

Roles and Responsibilities

Town auditors play a vital role in preserving the democratic nature of Vermont's local government by ensuring that local officials are accountable for their expenditures of taxpayers' money. It is the auditor's job to review the accounts of local officials and report the findings directly to the taxpayers for review. Because this report is presented only days before town meeting, the statutory scheme envisions that if the taxpayers do not like what the auditors' report indicates about how the officials have spent the taxpayers' money, the officials will be voted out of office. Thus, it is the auditor's function to present an easy-to-understand picture of the town's finances to its citizens.

- Each town must have three auditors, one of whom is elected each year for staggered three-year terms. 17 V.S.A. §§ 2646(6), 2649. Although there is no requirement for elected auditors to be certified public or professional accountants, or have knowledge of income and expense statements and balance sheets, it is recommended.
- A town may vote by ballot at its annual meeting to eliminate the office of auditor, in which case it must contract with a Vermont licensed certified public accountant to perform an annual financial audit of all town accounts. When the office of auditor is eliminated, the selectboard must assume all other duties of the office. 17 V.S.A. § 2651b.
- An auditor cannot also serve as town clerk, treasurer, selectperson, first constable, collector of current or delinquent taxes, trustee of public funds, town manager, road commissioner, water commissioner, sewer system commissioner, sewer disposal commissioner, cemetery commissioner or town district school director. A spouse of, or any person assisting any of these officers in the discharge of their duties, is also ineligible to hold office as auditor. 17 V.S.A. § 2647.
- The board of auditors compiles an annual report showing a detailed statement of the financial condition of the town's fiscal year. This report must include a classified summary of receipts and expenditures, a list of all outstanding orders and payables more than 30 days past due, a deficit if one exists, the receipts and disbursements of all trust funds in which the town has an interest, outstanding bonds, notes and orders of the town, and such other information as the town directs. 24 V.S.A. §§ 1683, 1684. The auditors must mail or otherwise distribute a copy of this report to every legal voter of the town at least ten days before the annual meeting. 24 V.S.A. § 1682(a). At the same time, copies required by 24 V.S.A. § 1173 and all surplus copies must be delivered to the town clerk before the first Tuesday in March. This mailing requirement helps avoid the need to publish the warning of the annual meeting in a newspaper. See 17 V.S.A. § 2641(b).
- The auditors must begin meeting at least 25 days before each annual town meeting to examine and correct the accounts of all town officers, as well as the accounts of all other persons who are authorized to draw money from the town treasurer, including elected and appointed officials who submit bills for expenses to the town for payment on a monthly or annual basis. This meeting must be noticed ten days in advance by posting or publication. 24 V.S.A. § 1681. Officers who refuse to provide this information to the auditors will not be eligible for reelection for the ensuing year. 24 V.S.A. § 1686(c).

For more information about the duties and functions of the auditor, please consult VLCT's *Handbook for Locally Elected Auditors* (2008). This handbook may be viewed (under "League Resources") or purchased (under "Marketplace") online at www.vlct.org.



Greater Upper Valley Solid Waste Management District

Serving Bridgewater, Hartland, Norwich, Pomfret, Sharon, Strafford, Thetford, Vershire, West Fairlee, Woodstock

96 Mill St., P.O. Box 58, No. Hartland, VT 05052-0058 • Phone (802) 296-3688 • Fax 281-7088 • E-mail GUVSWD@valley.net

March 1, 2015

TO: TOWN OF POMFRET SELECTBOARD
P.O. Box 64
South Pomfret, VT 05067

RE: Appointment of Representative and an Alternate to GUVSWMD Board of Supervisors

Dear Selectboard:

According to our District Charter: "On or before the last Monday of March... the Board of Selectmen of each municipality shall appoint its representative and an alternate representative to the Board of Supervisors for a term of two years. Appointments shall be in writing, signed by the chair of the board of selectmen, and presented to the Clerk of the District..."

Your Board needs to appoint (or re-appoint) a representative and an alternate to the Board of Supervisors this year. Please advise the District Clerk prior to March 31st who your appointees are using the enclosed letter of appointment, and mail to GUVSWMD at the above address.

(Current Board members from Pomfret are: Vernon Clifford – Rep.; Doug Tuttle – Alt.)

The Board meeting of March 5th will be our annual organizational meeting. We meet at the District office in North Hartland at 4:30 PM.

The District towns listed, as they fall equally in the first half of the alphabet, have two-year terms that begin on odd years ('13, '15, '17).

Bridgewater Norwich Pomfret

The District towns listed in the second half of the alphabet have two-year terms beginning on even years ('14, '16, '18).

Sharon Thetford Woodstock Hartland
Strafford Vershire West Fairlee

Sincerely,

Tom Kennedy
District Manager

CHAPTER 13. EMERGENCY MANAGEMENT DIRECTOR

Roles and Responsibilities

The emergency management director is an essential part of the state's emergency management effort and is responsible for the organization, administration, and operation of the local emergency management in the town or city. The emergency management director is under the direct control of the selectboard.

- The emergency management director should coordinate his or her efforts with the Vermont Department of Public Safety's Division of Emergency Management and Homeland Security (DEMHS) and the district emergency management coordinators, and will work with local emergency personnel including police, fire, EMTs, and the selectboard. 20 V.S.A. §§ 5, 6.

History. Civil defense was originally conceived as an emergency management policy employing volunteers in municipal defense programs during wartime. In 1989 the statutes were updated to recognize that what was once civil defense is now, primarily, emergency management. Thus, the position of civil defense chairperson is now filled by individuals who assist Vermont communities in their response to "all hazards" that include natural disasters, health or disease related emergencies, accidents, civil insurrection, use of weapons of mass destruction, terrorist, criminal or radiological incident, or events that pose a threat to property or public safety in Vermont.

Organization. The Division of Emergency Management and Homeland Security (DEMHS) of the Department of Public Safety provides aid and support to Vermont's Local Emergency Management Directors (LEMDs), Local Emergency Planning Committees (LEPCs), Regional Planning Commissions (RPCs), Community Emergency Response Teams (CERTs), state agencies, and emergency response providers. Through its programs, both before, during, and after times of crisis, DEMHS empowers local communities through disaster preparedness programs, guidance and technical assistance. The state commissioner of Public Safety with the approval of the governor appoints the director of DEMHS. 20 V.S.A. § 3. The director of Emergency Management is charged with coordinating all emergency management efforts within the state. An emergency board is also created by statute. 32 V.S.A. § 131; 20 V.S.A. § 45. This board is made up of the governor, the chairs of the Senate Finance and Appropriations committees, and the chairs of the House Ways and Means and Appropriations committees. This board authorizes the secretary of the Agency of Administration to expend money from the emergency relief and assistance fund (ERAF) to avert emergencies and provide low interest loans and grants to individuals and municipalities that sustain damage as a result of a federally declared natural disaster.

Local Authority. In accordance with the Vermont State Emergency Operations Plan (SEOP), each local government is directed to establish a local organization for emergency management. The selectboard (or the mayor) may appoint an emergency management director who is responsible for the organization, administration, and coordination of the local organization for emergency management, subject to the direction and control of the selectboard (or mayor). If no director is appointed, the selectboard (mayor) is the director and may appoint an emergency management coordinator. In towns that have a town manager form of government, the town manager is the emergency management director. 20 V.S.A. § 6(a). Each local emergency management organization is charged with performing the emergency management functions within the territorial limits of the town or city, and in neighboring communities under certain circumstances defined by the statute. 20 V.S.A. § 6(b).

The local emergency management organization must participate in the development of an all-hazards Local Emergency Operations Plan (LEOP), with the local emergency planning committee and the public

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safety district. 20 V.S.A. § 6(c). It must respond to all-hazards incidents only to the extent that it is qualified to do so. 20 V.S.A. § 6(d).

According to state statute, “emergency functions” include “services provided by the Department of Public Safety, fire fighting services, police services, sheriff’s department services, medical and health services, rescue, engineering, emergency warning services, communications, evacuation of persons, emergency welfare services, protection of critical infrastructure, emergency transportation, temporary restoration of public utility services, other functions related to civilian protection, and all other activities necessary or incidental to the preparation for and carrying out of these functions.” 20 V.S.A. § 2(4). “Emergency management” means the “preparation for and implementation of all emergency functions, other than the functions for which military forces or other federal agencies are primarily responsible, to prevent, plan for, mitigate, and support response and recovery efforts from all hazards. Emergency management includes the equipping, exercising, and training designed to insure that this state and its communities are prepared to deal with all hazards.” 20 V.S.A. § 2(6). The term “homeland security” refers to “the preparation for and carrying out of all emergency functions, other than the functions for which military forces or other federal agencies are primarily responsible, to prevent, minimize, or repair injury and damage resulting from or caused by enemy attack, sabotage, or other hostile action.”

Note that the selectboard may adopt, amend, and rescind orders, rules, and regulations as necessary to carry out emergency management functions within the community, so long as they are consistent with those established by the governor or any state agency exercising a power delegated by the governor. 20 V.S.A. § 16.

State Emergency Response Commission. In 1994, a state emergency response commission was created. This body consists of 15 members, including nine public members with representation from local government, a local emergency planning committee, a regional planning commission, the fire service, and law enforcement, among others. 20 V.S.A. § 30(a). The commission’s duties include designating and appointing local emergency planning committees, reviewing and commenting on the development and implementation of local emergency response plans by local emergency planning committees, assisting those committees in executing their duties, and reviewing and commenting on the comprehensive state emergency operations plan and local emergency planning committee response plans, among other things. 20 V.S.A. § 31.

Local Emergency Planning Committee. The local emergency planning committee is appointed by the state emergency response commission and should be comprised of representatives from the fire department; local and regional emergency medical services; local, county, and state law enforcement; media; transportation; regional planning commissioners; hospitals; industry; the national guard; the Department of Health district office; an animal rescue organization; and other interested public or private organizations. This committee is responsible for preparing a local emergency response plan, (LEOP) in coordination with the SEOP. At a minimum, the plan must identify facilities and transportation routes for extremely hazardous substances; describe emergency response procedures; designate a local emergency planning committee coordinator and facility coordinators to assist in implementing the plan; outline emergency notification procedures and evacuation plans; explain how to determine the probable affected area and population by releases of hazardous substances; describe local emergency equipment and facilities and the persons responsible for them; and provide training that is coordinated with the SEOP. Other responsibilities include coordinating with other local, regional, and state entities all emergency management activities, and reviewing and evaluating requests for funding. 20 V.S.A. § 32.

Inter-local Assistance. If an emergency requires a response beyond what the local emergency management team can provide, emergency management coordinators and/or volunteers from neighboring communities may render assistance, along with “mobile support units” created by the commissioner of

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the Division of Emergency Management. 20 V.S.A. § 7. Note that a person who renders aid outside the community to which he or she is appointed to serve will have all of the powers, duties, rights, privileges, and immunities as though the duties were being performed in his or her own community. 20 V.S.A. § 19.

Allegiance. No individual who advocates a change by force or violence in the constitutional form of the United States government, or who has been convicted of or is under indictment or information charging any subversive act against the United States may be associated in any capacity with the state or local emergency management organization. 20 V.S.A. § 18.

Immunity. According to statute, “except in the case of willful misconduct or gross negligence, the ... local emergency planning committees ... involved in ... emergency management activities shall not be liable for the death of or any injury to persons or loss or damage to property resulting from an emergency management service or response activity, including the development of local emergency plans and the response to those plans.” 20 V.S.A. § 20(a).

It is the responsibility of the director to coordinate all emergency actions within the community. As a practical matter, this means that in an emergency the director helps to ensure that all of the town services are coordinated. For example, the police and fire departments may need to coordinate with the utility departments. To assist in this coordination, a town’s local emergency planning committee should include representatives from all of the essential service providers of the town. Upon request of the selectboard, the emergency management director should schedule exercises and drills to test the local service’s responses to the various types of problems that can develop in an emergency.

For more information, contact Vermont Division of Emergency Management and Homeland Security, 103 South Main Street, Waterbury, VT, 05671-2101 at vem.vermont.gov/, 802-244-8721 or 800-347-0488. For the Hazardous Materials Hotline, call 800-641-5005.

§ 923. Quasi-judicial process

In order to protect the rights of property owners and the public, the process described in this section shall be used whenever so provided by other provisions of this title. As used in this section, "interested person" means a person who has a legal interest of record in the property affected.

(1) Notice-Written notice by certified mail shall be given to the property owner or any interested person describing the proposed activity affecting the property. The notice shall include a date and time when the selectboard shall inspect the premises. The notice shall precede the inspection by 30 days or more except in the case of an emergency.

(2) Inspection of premises-The selectmen shall view the area and receive any testimony pertinent to the problem including suggested awards for damages, if any.

(3) Necessity-The selectmen shall decide on the necessity for the activity or work proposed and establish any conditions for accomplishing it. This includes the award of damages, if applicable. The decision and the reason for it shall be announced within 10 days of the inspection unless formally delayed by the selectboard in order to receive more testimony.

(4) Notifying parties-The selectmen shall notify the property owner and other interested parties of their decision. They shall file a copy of their decision with the town clerk within 10 days of its announcement.

(5) Appeal-If an owner is dissatisfied with the award for damages he or she may appeal using any of the procedures listed in chapter 5 of this title. Notice or petition for appeal shall not delay the proposed work or activity. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 925. Laying fences down

When the selectmen determine that a highway is liable to be obstructed by snowdrifts, and the fences adjoining the highway can be conveniently laid down, they may cause any portion to be laid down during the winter. (Added 1985, No. 269 (Adj. Sess.), § 1.)

§ 926. Damages; appeal

The selectmen shall follow the procedures established in section 923 of this title in giving notice, inspecting property, determining need, awarding damages, and satisfying appeals. (Added 1985, No. 269 (Adj. Sess.), § 1.)